

(2010) 01 CHH CK 0054
In the Chhattisgarh High Court
Case No : M.A. (C) No. 470 of 2009

United India Insurance Company Ltd.	APPELLANT
Vs	
Amarnath Patel and Others	RESPONDENT

Date of Decision : 18-01-2010

Acts Referred:

Motor Vehicles Act, 1988 — Section 149, 166, 181, 192, 3

Citation : (2010) 3 MPJR 67

Hon'ble Judges : Nawal Kishore Agarwal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.K. Agarwal, J.

This is insurer's appeal against the award dated 18-11-2008 passed by First Additional Motor Accident Claims Tribunal (FTC), Ramanujganj, Distt. Surguja (for short "the Tribunal") in claim case No.7/ 2007 whereby and whereunder an amount of Rs.60,000/- has been awarded in favour of the claimant holding liable appellant/insurance company for its payment.

The facts briefly stated are as under:

ON 28-07-2004, the claimant met with an accident with Hero Honda motorcycle bearing registration No. CG 15 C/7507 owned by respondent No.2 and being driven by respondent No.1 at the time of accident as a result of which he sustained grievous injuries.

The respondents/claimant preferred an application u/s 166 of the Motor Vehicles Act (for short "the Act") claiming Rs.6,71,000/- as compensation for the injuries sustained by him in the said accident against the driver, owner and insurer of the said motorcycle. The claimant examined himself and one Amardatt Singh (AW-2). The respondents have not examined any witness in rebuttal.

Learned Tribunal on close scrutiny of the evidence led, material placed and

submissions made by the parties, awarded a total sum of Rs. 60,000/- along with interest @6% per annum from the date of order till its payment against the appellant as well as respondents No.2 and 3, hence this appeal.

Learned counsel for the appellant would submit that the driver of the motorcycle was not having valid and effective driving licence at the time of accident. The police case was registered against him also u/s 3/181 and 39/192 of the Act, since the driver of the motorcycle was not having valid and effective driving licence at the time of accident. Learned Tribunal has erred in fastening the liability of payment of compensation upon the appellant/Insurance Company.

I have heard learned counsel for the appellant, perused the award impugned and records of the case.

Admittedly, the appellant did not examine any officer from the Company nor examined the driver of the said vehicle nor submitted any document which could show that the driver of the driving licence at the time of accident and the owner of the vehicle breached the conditions of the policy even did not file and prove the policy and policy conditions so as to show that the owner of the vehicle has breached any specific condition of the policy in this regard.

Undisputedly, it is for the appellant to prove the defence of driving licence taken u/s 149 of the Act which the appellant utterly failed. Merely if a challan is filed by the police authorities against the driver of the said vehicle u/s 3/181 and 39/192 of the Act, without any further proof it cannot be said that the driver of the said vehicle was not having driving licence or the appellant has succeeded in proving the defence in view of Section 149 of the Act.

In view of the above, in the considered opinion of this Court, the learned Tribunal has not committed any illegality or perversity in awarding and holding liable to the appellant for payment of compensation to the claimant.

In view of the foregoing, the appeal being devoid of substance, is liable to be and is hereby dismissed at the admission stage.